

Ex. 4: Affidavit of Richard Russell

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

ANTHONY HARP #372187,

Plaintiff,

NO. 5:19-cv-13789

v

HON. JUDITH E. LEVY

VICTORIA HALLETT, C/O
LASHLEY, C/O DRUM, C/O
LADD, and TRANSPORTATION
OFFICERS,

MAG. PATRICIA T. MORRIS

Defendants.

AFFIDAVIT OF RICHARD RUSSELL

I, Richard Russell, being duly sworn, depose and say as follows:

1. I am presently the Hearings Administrator and the Manager of the Grievance Section in the Office of Legal Affairs of the Michigan Department of Corrections (MDOC), with my office in Lansing, Michigan. I have held this position since May 1, 2011.

2. If sworn as a witness, I can testify competently to the facts contained within this affidavit.

3. As the MDOC Hearings Administrator, my duties include oversight of the request for rehearing process (of Class I misconduct

tickets) under MDOC Policy Directive (P.D.) 03.03.150, “Prisoner Discipline.”

4. When my office receives a request for rehearing, it is logged into the rehearing database by the Rehearings Analyst and reviewed for procedural requirements under MDOC P.D. 03.03.150 ¶ SSS, including whether it contains a copy of the misconduct report and of the misconduct hearing report, and whether it was submitted within 30 calendar days after receipt of the misconduct hearing report. If the request does not meet one of the procedural requirements, then the Rehearings Analyst logs that information and returns the request to the requestor without processing. If the request meets all of the procedural requirements, then the Rehearings Analyst forwards it to the Rehearings Specialist who processes it and decides whether to approve a rehearing for one of the reasons set forth in MDOC P.D. 03.03.150 ¶ TTT. The Rehearings Specialist returns the decision to the Rehearing Analyst, who logs the disposition of the request in the rehearing database and returns the decision to the requestor.

5. In preparation for this affidavit, I searched the rehearing database for a June 11, 2019, ticket received by Anthony Harp, #372187. The database entry for Harp’s June 11, 2019, ticket indicates

that the hearing for that ticket occurred on June 18, 2019, but that the request for rehearing was not received until August 5, 2019. Because the request for rehearing was not received within 30 calendar days of the receipt of the hearing report, the request for rehearing was returned to Harp without processing. A screenshot of the search results is included below:

Rehearing Database Log

**MICHIGAN DEPARTMENT OF CORRECTIONS
REQUEST FOR REHEARING DATA ENTRY FORM**

Prisoner Number	RFR Record:	Prisoner Last Name:	DB Rec Number:
372187	057	Harp	25457

Received Date	1st Charge	012 - Threatening Behavior
8/5/2019	2nd Charge:	426 - Insolence
Hearing Date:	3rd Charge:	057 - Sexual Misconduct (Words/actions of a sexual nature)
6/18/2019	4th Charge:	
Misconduct Date:		
6/11/2019		

Facility:	Hearing Officer:	Filed By:	<input type="checkbox"/> Warden RFR
JCF	071	P	<input checked="" type="checkbox"/> Prisoner RFR

<input type="checkbox"/> No HR	<input type="checkbox"/> No MR	<input type="checkbox"/> No HR/MR	<input type="checkbox"/> Requested HI	<input type="checkbox"/> Paroled	<input type="checkbox"/> Discharged	<input type="checkbox"/> Death
Request HR/MR Date:				If Returned, Original Rec'd Date:		
HR/MR Returned Date:						
Decision:	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input checked="" type="checkbox"/> Returned without action; Not filed within 30 calendar days			

Date Mailed:	Rehearing Date:
9/10/2019	

Comments:

Record: 14 3 of 3 Filtered Search


6. The documents referenced in this affidavit are records of regularly conducted activity of the MDOC. The records were made at or near the time of the occurrences reflected, by a person with knowledge

of those matters, or from information transmitted by a person with knowledge of those matters. These documents are kept in the regular course of business of the MDOC. Any copy of these records attached to or accompanying this affidavit are true and accurate copies of the original records.

AFFIANT SAYS NOTHING FURTHER.

“I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND ACCURATE.”

Date: October 15, 2021


Richard D. Russell
Hearings Administrator &
Grievance Section Manager
Office of Legal Affairs
Mich. Dep't of Corrections